

HOUSE BILL No. 1315

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-14.

Synopsis: Employee benefit account programs. Provides that an employer may establish an employee benefit account program to pay certain qualified expenses of employees.

Effective: July 1, 2003.

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January 13, 2003, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1315

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-2-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 14. Employee Benefit Account Program**

5 **Sec. 1. As used in this chapter, "employee" means the individual**
6 **for whose benefit an employee benefit account is established.**

7 **Sec. 2. As used in this chapter, "employee benefit account"**
8 **means an account established under an employee benefit account**
9 **program for payment of qualified expenses of an employee.**

10 **Sec. 3. As used in this chapter, "employee benefit account**
11 **program" means a program established under this chapter to pay**
12 **the qualified expenses of employees through employee benefit**
13 **accounts.**

14 **Sec. 4. As used in this chapter, "qualifying event" means an**
15 **event or occurrence that would have been covered under an**
16 **employee benefit plan provided by the employer during the**
17 **employee's employment by the employer. Employee benefit plans**

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1 include plans described in IC 22-2-12-4(a).

2 Sec. 5. As used in this chapter, "qualified expense" means an
3 expense associated with a qualifying event.

4 Sec. 6. An employer may agree through a contract, a collective
5 bargaining agreement, or another binding agreement to establish
6 an employee benefit account program for the employer's
7 employees.

8 Sec. 7. An employer that establishes an employee benefit
9 account program under this chapter shall, before making any
10 contributions to employee benefit accounts under the program,
11 inform all employees in writing of the federal tax status of
12 contributions made under this chapter.

13 Sec. 8. An employee benefit account program established by an
14 employer under this chapter must include all the following:

15 (1) Contributions by the employer and the deposit into the
16 employee benefit account established on behalf of each
17 employee of qualified expenses of the employee based on an
18 actuarial valuation.

19 (2) The designation of an account administrator to administer
20 the employee benefit accounts of employees.

21 Sec. 9. The following may be an account administrator under
22 this chapter:

23 (1) A federal or state chartered:

24 (A) bank;

25 (B) savings association;

26 (C) savings bank; or

27 (D) credit union.

28 (2) A trust company authorized to act as a fiduciary.

29 (3) An insurance company or a health maintenance
30 organization authorized to do business in Indiana under
31 IC 27.

32 (4) A broker-dealer, an agent, or an investment adviser
33 registered under IC 23-2-1.

34 (5) A person:

35 (A) that holds a certificate of registration as an insurance
36 administrator; or

37 (B) for whom the insurance commissioner has waived the
38 requirement of a certificate of registration as an insurance
39 administrator;

40 under IC 27-1-25-11.

41 (6) An employer that participates in the employee benefit
42 account program.

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1 **Sec. 10.** An account administrator shall use the funds held in an
 2 employee benefit account exclusively to pay the qualified expenses
 3 of an employee.

4 **Sec. 11. (a)** Funds held in an employee benefit account may not
 5 be used to cover qualified expenses of an employee that are
 6 otherwise covered.

7 **(b)** Qualified expenses that are otherwise covered for purposes
 8 of this section include expenses covered by:

9 **(1)** an automobile insurance policy;

10 **(2)** a worker's compensation insurance policy or self-insured
 11 plan; or

12 **(3)** another health coverage policy, certificate, or contract.

13 **Sec. 12.** If an employee submits documentation to an account
 14 administrator concerning qualified expenses that the employee has
 15 incurred and paid for, the account administrator shall reimburse
 16 the employee from the employee's account for the qualified
 17 expenses paid by the employee.

18 **Sec. 13.** If the employment of an individual by an employer that
 19 participates in an employee benefit account program is terminated
 20 by means other than the retirement or death of the former
 21 employee, the money in the former employee's employee benefit
 22 account shall be distributed on a pro rata basis among the
 23 remaining employee benefit accounts established by the employer.

24 **Sec. 14. (a)** This section applies if an employee dies whose
 25 employer participates in an employee benefit account program.

26 **(b)** After the death of an employee described in subsection (a),
 27 the former employer shall pay the money in the employee benefit
 28 account to the estate of the individual under subsection (c).

29 **(c)** The account administrator shall distribute the principal and
 30 accumulated interest in the account to the estate of the employee
 31 described in subsection (a) by mailing a check to the personal
 32 representative (as defined in IC 29-1-1-3) of the employee.

33 **Sec. 15.** A person who fails to pay a qualified expense from an
 34 employee benefit account commits a Class A infraction.

35 **Sec. 16. (a)** The department of labor may commence an
 36 administrative proceeding under IC 4-21.5 to impose a civil penalty
 37 of not more than one thousand dollars (\$1,000) for a violation of
 38 this chapter.

39 **(b)** Each failure to pay a qualified expense from an employee
 40 benefit account constitutes a separate violation for purposes of this
 41 section.

42 **Sec. 17.** The department of labor may adopt rules under

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- 1 **IC 4-22-2 necessary to implement this chapter.**

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